REMARKS

Favorable consideration of this Application as presently amended and in light of the following discussion is respectfully requested. The applicant has incorporated claim 8 into claim 1. The applicant has rewritten claims 15 and 17 into the independent form.

After entry of the foregoing Amendment, Claims 1-3, 6, 7, 9-11 and 15-17 are pending in the present Application. Claims 4, 5, 8, 12, 13 and 14 have been canceled without prejudice or disclaimer. Claims 1, 15 and 17 have been amended. No new matter has been added.

By way of summary, the Official Action presents the following issues: Claims 1-7, 11, and 12 stand rejected under 35 U.S.C. § 102 as being anticipated by Auerbach (U.S. Patent No. 4,652,594) ("Auerbach"); Claims 1-7, 11, and 12 stand rejected under 35 U.S.C. § 102 as being anticipated by Natarajan (U.S. Patent No. 4,480,071)(" Natarajan"); Claims 1, 3-6, 11, and 12 stand rejected under 35 U.S.C. § 102 as being anticipated by Miyawaki (EP 06240105) ("Miyawaki"); Claims 8, 12, and 15-17 stand rejected under 35 U.S.C. § 103 as being unpatentable over Auerbach in view of Hwang (U.S. Patent Publication No. 2004/0158023) ("Hwang"); Claims 9 and 10 stand rejected under 35 U.S.C. § 103 as being unpatentable over Auerbach or Nataragan in view of Sharma (U.S. Patent No. 6,093,319)("Sharma"); Claims 13 and 14 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nataragan in view of Sonoda (U.S. Patent No. 6,129,961)("Sonoda"); and, Claims 1-17 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting. The applicant respectfully traverses these rejections.

REJECTION UNDER 35 U.S.C. § 102

Claims 1-7, 11, and 12 were rejected under 35 U.S.C. § 102 as being anticipated by Auerbach. Claims 1-7, 11, and 12 were rejected under 35 U.S.C. § 102 as being anticipated by

Natarajan. Claims 1, 3-6, 11, and 12 were rejected under 35 U.S.C. § 102 as being anticipated by Miyawaki. The applicant has incorporated the features of claim 8 into independent claim 1. Claim 8 was not rejected over these references. For at least the above reasons these rejections should be withdrawn.

REJECTION OF CLAIMS 8, 12, AND 15-17

Claims 8, 12, and 15-17 were rejected under 35 U.S.C. § 103 as being unpatentable over Auerbach in view of Hwang. The applicant points out that Hwang is not available prior art. Hwang has a filing date of August 4, 2003 and this application was filed as a PCT on March 4, 2003. Therefore, Hwang was filed after the filing date of this application is not available prior art. For the above reasons, this rejection should be withdrawn.

REJECTION OF CLAIMS 9 AND 10 AND CLAIMS 13 AND 14

Claims 9 and 10 were rejected under 35 U.S.C. § 103 as being unpatentable over Auerbach or Nataragan in view of Sharma. Claims 13 and 14 were rejected under 35 U.S.C. § 103 as being unpatentable over Nataragan in view of Sonoda. Again, claims 9 and 10 ultimately depend upon claim 8 which was not rejected over these references. Claims 13 and 14 have been cancelled. Therefore these rejections should be withdrawn.

DOUBLE-PATENTING REJECTION

Claims 1-17 were rejected under the judicially created Doctrine of Obviousness-type double patenting over Claims 1, 4, 9, 10-12, and 16-20-4 of co-pending Application Serial No. 10/506,541.

Obviousness-type double patenting as defined is when claims in a patent application are not patentably distinguishable from claims in a patent (MPEP 804). The test applied to

determine obviousness-type double patenting exists is whether or not the claims in the application define merely an obvious variation of the invention disclosed and claimed in the patent (In re Vogel and Vogel, 164 USPQ 619 (CCPA 1970). If claims are unobvious over 35 U.S.C. §103, there can be no double patenting (In re White and Langer, 160 USPQ 417 (CCPA 1969)). The Examiner refers that these claims overlap or at least encompass each other. Further, the overlapping of claims is not a significant or controlling factor in obviousness-type double patenting (In re Longi et al., 225 USPQ 645 (CAFC 1985)). The proper consideration of obviousness type doubling patenting is the improper extension of the patent right. The applicants believe that these applications are patentably distinct for the reasons stated below.

Claim 1 of the '541 application states,

> A **thermoplastic molding** composition comprising
> a) **from 20 to 99% by weight of a thermoplastic polymer selected from the group consisting of polyolefin, modified polyolefin; polyacrylate, polymethacrylate, polymers produced via polymerization of esters and/or amides of acrylic or methacrylic acid, and also their copolymers, polyamide, polyester, polycarbonate, polyether, polythioether, polyphenylene oxide, polyarylene sulfides, and their mixtures**
> b) from 10 to 80% by weight of a reinforcing fiber and
> c) from 0.00001 to 1.0% by weight of a phosphane, sulfonium salt or a titanyl compound and/or 0.00001to 0.03% by weight of a phosphonium salt or ammonium salt or their mixtures as a catalyst which catalyzes the formation of covalent bonds between the thermoplastic polymer and the surface of the additive.
>
> 8. The thermoplastic molding composition as claimed in claim 1, wherein the catalyst is selected from the group consisting of ethyltriphenylphosphonium bromide, tetraphenylphosphonium bromide, tetrabutylphosphonium bromide, stearyltributylphosphonium bromide, triphenylphosphane, and their mixtures.

Claim 1 of the instant application is

1. A **polyacetal molding** composition comprising
a) from 20 to 99% by weight of a **polyacetal homo- or copolymer**,
b) from 0.1 to 80% by weight of an additive, and
c) up to 1.0% by weight of a catalyst which catalyzes a chemical reaction between the polyacetal matrix polymer and the surface of the additive,
where the catalyst does not comprise the element boron and is not a Brönsted acid and wherein the catalyst is selected from the group consisting of ethyltriphenylphosphonium bromide, tetraphenylphosphonium bromide, tetrabutylphosphonium bromide, stearyltributylphosphonium bromide, triphenylphosphane, n-butyl titanate, and their mixtures.

In the instant case, one difference between the claimed invention and the '541 application is that the claimed invention is directed to a polyacetal molding composition while the claimed invention of the '541 application is to a thermoplastic molding composition[1]. Another difference is between the two is that component a) in the '541 application is a) **a thermoplastic polymer** while component a in the applicant's claimed invention is a **polyacetal homo- or copolymer**. For the above reasons, this rejection should be withdrawn.

Applicant believes no fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 05587-00368-US from which the undersigned is authorized to draw.

Respectfully submitted,

Connolly Bove Lodge & Hutz LLP

By _____
Ashley I. Pezzner, Reg. No. 35,646
P.O. Box 2207
Wilmington, DE 19899
(302) 658-9141

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[1] It is noted that the preamble in claims 16-20 inadvertently state "polyacetal molding composition". The applicant will file a request for Certificate of Correction shortly after the patent issues to correct this obvious typographical error.